

Appl. No. : 10/782,149
Filed : February 19, 2004

REMARKS

In response to the Office Action mailed January 31, 2007, Applicants respectfully request the Examiner to reconsider the above-captioned application in view of the foregoing amendments and the following comments. Claims 1 - 58 were pending. Claims 1 - 21 and 42 - 58 have been cancelled without prejudice or disclaimer. Applicants expressly reserve the right to pursue the same or similar claims in a future application. Claims 22 - 41 remain pending. Claim 22 has been amended. New Claims 59 - 66 have been added.

Allowable Subject Matter

Applicants thank the Examiner for the indication of allowable subject matter in Claims 27 and 28.

Claim Amendment

Claim 22 has been amended to remove a limitation and more clearly define Applicants' invention. This limitation has been incorporated in new dependent Claim 65. No new matter is introduced by way of this amendment

New Claims

Claims 59 - 66 have been added to further define Applicants' invention. No new matter is introduced by way of this amendment

Claim Rejections

Claims 22, 26, 29 - 32, and 40 - 41 were rejected under 35 U.S.C. § 103(a) as being unpatentable over WO 98/35611 to Gat (the "Gat reference") in view of US Patent No. 7,069,072 to Jansen et al. (the "Jansen reference"). Claims 33 - 34 were rejected under 35 U.S.C. § 103(a) as being unpatentable over the Gat reference in view of the Jansen reference further in view of U.S. Patent Publication No. 2002-0049488 to Boneau (the "Boneau reference"). Claims 35 - 39 were rejected under 35 U.S.C. § 103(a) as being unpatentable over the Gat reference in view of the Jansen reference further in view of U.S. Patent No. 6,666,828 to Greco (the "Greco reference") and the Boneau reference. Applicants respectfully disagree with these rejections and request withdrawal of the present rejections as the references, taken alone or in combination, fail to teach or suggest each and every element of the claims.

Claim 22 recites a method for measuring a cross-sectional area of a targeted treatment site including, among other steps, "injecting a known volume of a first solution of a first compound

having a first conductivity into the treatment site,” “measuring a first conductance value at the treatment site,” “injecting a second solution of a second compound having a second conductivity into the treatment site, wherein the second solution has a second volume and wherein the second conductivity does not equal the first conductivity,” “measuring a second conductance value at the treatment site,” and “calculating the cross-sectional area of the treatment site based on the first and second conductance values and the conductivities of the first and second compounds.”

As noted in the Office Action at paragraph 6, the Gat reference is silent regarding the fluid injected into the treatment site and measuring a first and second conductance value. The Office Action argues that Jansen teaches “measuring the cross-sectional area of a body lumen comprising injecting a first and second fluid, saline solution into the treatment site and a first and a second conductance value is measured.” Applicant respectfully disagrees.

In Jansen, one injection is used to determine conductivity while the other injection is used to determine cardiac output. Col. 3, ll. 49-55. Jansen relies on the single conductivity injection and the classical thermodilution method for determining conductivity as presented by Baan. Col. 1, ll. 30-31. In thermodilution, the injection is typically made away from the site of measurement and hence very high concentrations are usually invoked. Such a method is impractical in patients as the human body cannot tolerate the high osmolarity injections. Contrary to the position taken in the Office Action, Jansen does not teach injecting first and second solutions having first and second different conductivities, and using the measured conductance values thereof and the known first and second conductivities to calculate the cross-sectional area of the treatment site as recited in the claim. Thus, the cited art does not (alone or in combination) disclose a method for measuring a cross-sectional area of a targeted treatment site with the above-noted limitations. For at least this reason, Applicants submit that Claim 22 is in condition for allowance. Claims 23 - 41 and 59 - 66 depend either directly or indirectly upon Claim 22 and, for at least this reason, these claims are also in condition for allowance.

For the foregoing reasons, it is respectfully submitted that the rejections set forth in the outstanding Office Action are inapplicable to the present claims and specification. Accordingly, withdrawal of the present rejections and early issuance of a Notice of Allowance is most earnestly solicited.

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The undersigned has made a good faith effort to respond to all of the rejections in the case and to place the claims in condition for immediate allowance. Nevertheless, if any undeveloped issues remain or if any issues require clarification, the Examiner is respectfully requested to call Applicant's attorney in order to resolve such issue promptly.

Please charge any additional fees, including any fees for additional extension of time, or credit overpayment to Deposit Account No. 11-1410.

Respectfully submitted,

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